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THE PACIFIC

SUPREME COURT OF THE HAWAIIAN ISLANDS-July Term, 1878. IN THE MATTER OF THE PETITION OF LOUIS PALOMA, AND OTHERS, TO QUIET TITLE IN A CERTAIN PIECE OF LAND CLAIMED BY RIGHT OF INHERI-

HARRIS, C. J.; JUDD AND MCCULLY, J.J. Question Reserved. Opinion by Harris, C. J.

survived the deceased ancestor. Now this petition does not set forth those facts, but merely sets forth that the petitioners are the lawful heirs of Paloma, being his sisters and brother. To that extent they are certainly statutable beirs, we cannot afford to pay, and hence we ship it provided there are none nearer. The petition does not set forth that Sheldon, who is cited, claims as heir, but merely that he is in possession and does not state how he came into possession, whether by deed or otherwise.

Service was made upon the respondent Sheldon, who has seen fit to put in an answer admitting that he is in possession, but averring in effect that he claims the land adversely to these claimants, and by title paramount, and not by inheritance from John Paloma. This is a complete answer and sufficient to take the case out of

This then is not a petition to "Quiet a Title, but is a proceeding to obtain possession of a piece of land claimed adversely by Sheldon, or in other words, a proceeding to eject Sheldon, who, it is not made to appear, claims as heir, or has any community of interest with the petitioners. Now in the 7th Article of the Constitution it is stated that, " In all cases in which the right of trial by jury had been heretofore used, it shall be held inviolable for ever, excepting in actions of debt or assumpsit, in which the amount claimed is less than (\$50) fifty dollars."

Now in actions of this nature, (ejectment) before the promulgation of the Constitution (20th August, 1864,) the right of trial by jury had been used for a long space of time, and therefore may not be denied by any subsequent legislation. Hence it follows that the defendant has a right to a trial by jury, and the petition must be CHAS. C. HARRIS,

A. FRANCIS JUDD, LAWRENCE MCCULLY. Honolulu, Aug. 22d, 1878.

SUPREME COURT OF THE HAWAIIAN ISLANDS-July Term, 1878. KUAWELA, VS. E. HILDA, J. BURGESS, ET. AL. HARRIS, C. J., JUDD AND MCCULLY, J.J.

Opinion by Harris, C. J. The bill of complaint in this case was filed on the 18th March, 1878, setting forth an agreement for the purchase and sale of a small piece of land in Koolaupoko. This agreement is dated the 10th March, 1864, and the translation of it is as

"There has been paid to me this day twenty dollars by the hand of Kuawela. Eighty dollars have been paid before; in all one hundred dollars for our selling a certain portion of land in Manulele, Kailua, Koolaupoko. Whensoever all the place sold shall be surveyed off then I will give him a deed.

> "(Signed) HALAKAIPO, X

The Halakaipo who signs this paper was the owner of the land, and the person from whom the present title is derived. She died in the month of June, 1876, not having executed the deed. Kuawela, the plaintiff, has been on the land, ever since the date of this paper, and before that date, and has built a cottage on it. But it is objected to this writing that it is signed by a mark, and the signature is unwitnessed by any one, and therefore the writing is not within the spirit of the 1053d Section of the Civil Code, which states that " no action shall be maintained to charge a person upon any contract for the sale of lands unless the promise, contract or agreement, or some memorandum or note thereof, shall be in writing and is signed by the party to be charged therewith."

The Court is of opinion that this is a sufficient memorandum if the signature be proved. Of course such a signature would have to be proved either by direct testimony of people who saw it written, or by undoubted admissions of the party sought to be charged; but if fully proved would be as good a signature as though the woman had signed it by letters.

But there is a plea in bar set up to the effect that a bill similar to this, was filed on the 27th August, 1877, and summons duly issued; that on the 3d of September the defendants filed their general and special demurrer, and on the 29th of November a decree was made dismissing the said bill; and further, that on the 4th day of October, preceding said 29th of November, an agreeinjunction were ordered in pursuance of the prayer of said bill, the defendant in the bill, who was plaintiff in a suit of ejectment then pending, Clerk's memorandum, such appears to be the course to allowing them to file an amended bill, because the inaccuracies were so numerous.

As we understand the agreement of the 4th of October, it was an agreement that the defendnew bill. But on the 13th of February, 1878, the plaintiff's counsel filed a new agreement in ample. The kanakas feel a strong the following words: In the Supreme Court.

Burgess vs. Kuawela. Action at law for Eject-Kuawela vs. Burgess. Suit in Equity for Inunction against action. Consent for judgment. Judgment in favor of Burgess may be entered in the above entitled

W. R. Castle, Attorney for Kuawela. Honolulu, H. I., February 13th, 1878. This is a positive agreement, made seven months after the proceedings have been com-menced in the case, with a full knowledge of all the facts, and we think it binding upon all the parties. Judgment was entered upon it and writ of possession was duly issued. There is no reason shown why this last agreement shall not be taken as conclusive between the parties, for ought that appears in the bill or is made to appear at the hearing. There could have been no other intention, for unless such be the intention, the agreement is absolutely useless. The plea in bar is sustained and the bill is

CHAS. C. HARRIS, A. FRANCIS JUDD. LAWRENCE MCCULLY. Castle & Hatch for plaintiff; A. S. Hartwell Honolulu, Aug. 15th, 1878.

The Oregonian, reviewing the Indian war, says General Howard has no fear of the criticism which his campaign has encountered. It is based, he believes, on the assumption that some locality, town or post was to be guarded by the troops. whereas the main and constant effort with the troops and means at hand was to overtake and fight the enemy; defeat his efforts at junction with waiting allies; and kill or capture, or drive career. Educated for the Catholic priesthood, beyond our limits these murdering hostiles. This a love affair clouded the ecclesiastical skies, he declares has been done. The Indians, in their raid in Umatilla county, visited the ranch belonging to E. H. Vinson, on

for defendants.

Agent. under the bead of each dead hog.

Butter creek. Some of the deviltry they perpetrated at this ranch seems to have a spice of

(From the San Francisco Chronicle, Aug. 22.)

INTERVIEW WITH A LEADING MEMBER OF THE

rived here by the Australian steamer, and is stopping at the Palace Hotel. A Chronicle representative was detailed to call on the distinguished Hawaiian statesman, and after characteristic "alohas" were exchanged an interview followed. In reply to various questions Mr. Gibson replied in substance as follows: The condition of the Islands, notwithstanding the great This action is apparently brought under the drouth, is prosperous and the future looks very 52d Chapter of the Session Laws of 1874, being bright. Since the passage of the reciprocity "An Act to Quiet Title in Lands, claimed by | treaty sugar-lands have increased in price wonence to the statute is made in the petition, but | bring high figures. When land is in demand it still the fact that the petition is made to the First is a sure sign of general prosperity. The sugar Associate Justice instead of the Chief Justice, interest throughout the group is promising, and and indeed, the whole structure of the petition, all the leading men on the Islands are engaged indicates that it was made under that statute, in the production of the leading staple of Hawaii. subdivision of the first section of the statute re- commerce being entirely in the hands of the quires that there should be set forth in the peti- Chinese. Our wool product is increasing yearly, tion, whether widow, children or statutory heirs, but as wool is not included in the articles that in the Australias and Canada. The duty per pound in the United States is 11 cents, which where it can enter free. A VERY VALUABLE SHIPMENT brought by the latest steamer is now in bond

here to be sent overland to Canada, and thousands of dollars worth are sent to Australia. The Hawaiian Islands can support 1,000,000 sheep and could export 3,000,000 to 6,000,000 splendid condition. We no longer import sheep from California, as they all seem to be afflicted with the scab. A shipment of something like a thousand head, made a year ago this month to the islands, has unfortunately turned out badly. The scab detroyed half of them and the rest will undoubtedly perish. The whole lot was reputed to be excellent California stock. Your sheepraisers will have to look to this matter, as it is | ny desires its own interests to be paramount, or one of great importance to them. Hawaiian | they will have nothing to do with it : sheepowners would prefer to deal with California if they could do so advantageously. We raise fine herds of cattle on the island, more than enough for home demand, ships and exportation to Tahiti. Our need of horses is small, but a few gentlemen have imported superior animals from the United States. Native horses as they are called, can be bought all the way from ten to fifty dollars, and every native has one or more. A native never walks when he can ride. As to THE HAWAIIAN LEGISLATURE, It is composed of a body of intelligent and honor-

able men, the House of Nobles containing a

majority of foreigners and the House of Representatives a majority of natives. The Re-W. C. Jones for plaintiffs; E. Preston for presentatives get \$250 as salary during the session, whether its duration is short or long. The present Legislature, which was to adjourn on the 6th instant, opened on the 30th of April, and transacted a great deal of practical business. An appropriation of \$75,000 for the lepers on Molokai, one of \$63,000 for the building of pended in importing Chinese, and one of \$135,-000 for the construction of roads and bridges and repairs, were the most important hills passed. I had the honor of representing Lahaina in the Legislature, and in the debate I found that the native members were opposed at first to any appropriation for the lepers, many of the members believing that they ought to be allowed to return to their friends. I argued with my fellow-members as to the folly and impracticability of allowing the lepers to mingle freely with body of the population. They listened to reason and passed the appropriation heartily. I have lived a great portion of my life among the Hawaiians and never was so proud of them as now. During the whole session of the Legislature their representatives manifested an earnest purpose and the highest fidelity to principle. Such natives as Simon Kaai, David Malo, Rev. Mr. Pilipo and others are splendid specimens of their race and highly intellectual. Rev. Kuaea, our chaplain, is a remarkably eloquent man, and is commonly called the Beecher of Hawaii, owing to his striking facial resemblance to the great Plymouth pastor. Were it not for the color of the skin, it is thought, he could pass for Beecher even

in Brooklyn. According to the latest report of the Board of Health there are on Molokai 692 unfortunates afflicted with leprosy, from cases where it is just disernible to that condition where a view of the victim is absolutely appalling. Common reports have it that there are enough scattered throughout the islands to make the sum total 1,000, but I doubt this. We have earnestly looked into the face of this great calamity, and considering that there are so many lepers in a population of a little over 50,000, have looked at it as a matter of life or death. The Government has done and is doing all it can to succor the unfortunate and stay the spread of this frightful desease. Both Government and people are aroused to the danger. I learn that there are lepess among the Chinese of this city, and if so the authorities cannot too soon take steps to crush out so great a peril to the State. Those who have seen the desolating influence of leprosy only know its nameless horror.

THE NATIVE POPULATION ment was made between the parties, that if no injunction were ordered in pursuance of the prayphesied will not be realized. In many districts there has been an increase of births over deaths, might take judgment; and it is argued here that and in no locality has the death rate been so according to the memorandum of the Clerk the disheartening as in the past. The favorite theme bill was dismissed generally without reference to of His Majesty Kalakaua is embodied in the exthe points of demurrer. On consulting the pression. "Hooulu lahui" (increase and multiply,) and the people seem to have the same fact. But this was merely the Clerk's memo- motto as their worthy ruler. The mothers of randum, and as soon as the Judge was apprised Hawaiian children pay more attention to their of it, it was his right and duty to make whatever offspring than formerly, and the houses of the corrections were necessary, and he did so, saying natives have been increasing in number from that he dismissed the bill for its formal inaccura- grass hovels to neat one and two-story wooden cies, without prejudice to the plaintiff's right to buildings. On my own island there are over bring a new bill. He says he preferred that fifty wooden buildings, all comfortable dwellinghouses, where a few years ago grass buts stood. We have so influenced their social system that parents now sleep apart from their elder children. In ancient times all slept together on mats on the ants in the bill should take judgment in the eject- floor, with one large tapa, or blanket, made of ment suit, providing the injunction was denied.

Now no injunction was denied; but as the Judge says, in his opinion, the bill was dismissed without prejudice, and they were advised to bring a ties of civilized life. Their sovereign and his E. S. CUNHA......PROPRIETOR gracious Queen certainly set them a noble ex-LOVE FOR THE UNITED STATES, Choice Ales, Wines, Liquors, Cigars, &c

And the great honors paid to the King when His Majesty visited this country were appreciated. We Hawaiians feel that we are your first cousins, and if we had cable communication with San Francisco we would send you an "aloha" (love to you) every day. The leading spirits of the Islands, both natives and foreigners, are a unit in their desire for having a Of any kind, on the most reasonable terms, and of the best cable connecting with California, and the Gov- quality. Communications sent through the Post Office will ernment is no less zealous. Our commercial relations are rapidly growing, and San Francisco is looked upon as the sister of Honolulu. As to the form of government, the great majority of the people of Hawaii are content with a liberal and enlightened monarchy. In no place in the world are life and property more secure than in the Sandwich Islands. The people are generous and hospitable, and as to the climate it is perfect in its tropical moderation. In asking about the Chinese question I think the case is precisely as it is here. There are not over 3500 coolies on the Islands, although I have seen the number set as high as 5000. The natives are strongly opposed to the further importation of Chinamen, as much so as are the laboring whites of California, as it concerns them. The Hawaiian Government is procuring Polynesian laborers from the South Pacific, and these receive a warm welcome. The more of them that can be procured the better it will be for us all. They are faithful laborers, and naturally affiliate with the

A REMARKABLE HISTORY. This ended the interview. But the public will be interested in the life of the gentleman interviewed. He is an American (a South Carolinian) by birth, and has had a most romantic when he became a rover on the seas, and with his own yacht and crew sailed for the Malayan Archipelago, where he was arrested and im-prisoned by the Dutch authorities, charged with trying to subvert their power. He has written grim humor in it. One thing they did was to kill an interesting story of his prison life and the THEO. H. DAVIES. | all the hogs on the ranch and put a nice cheese | facts connected therewith. Honorably acquitted, he again roved over the great deep, making a thor-

ough cruise through Polynesia, and finally arriving at the Sandwich Islands, where he settled and prospered, and is now one of the wealthiest men on the group. His ambition to unite all the LEGISLATURE-THE EFFECT OF RECIPROCITY- Polynesian Islands into one confederacy, with a PROSPERITY OF THE ARCHIPELAGO-THE LEPER central government, has cost him immense labor AND CHINESE QUESTIONS-NATIVE POPULATION and large sums of money. He loves the Sandwich Islanders as children and has unbounded influence with them. As editor of the Nuhou Hon. Walter Murray Gibson of Honolulu arhe defeated the scheme to rob the United States by the purchase of Pearl River Harbor. Mr. Gibson is still in the prime of life and is a widower. After a trip castward and southward he returns again to his Paradise in the Pacific.

CABLE COMMUNICATION.

The following article, copied from the West From Paris, New York and London. Australian Times, presents some new features in connection with the subject of Ocean Cables, as right of inheritance." It is true that no refer- derfully, and all kinds of available real estate affecting Australia. It will be admitted that Western Australia has superior geographical advantages for a connection by cable, with the telegraph system of Southern India, as the land route would be continued southerly through the and it was so argued at the bar. The fourth A considerable area is under rice, this article of inhabited parts of the country, instead of across the great desert of the interior, as would be the case if a line were established northerly from can be admitted free of duty into the United from Melbourne or Adelaide to Port Darwin. States, we are compelled to find a market for it Until the conflicting interests of the different Colonies are reconciled, there does not seem much probability of any comprehensive system being adopted by them. If foreign capital is called in, it will not regard, to any extent, local wishes, but will take the route most advantageous to itself. The writer of the article seems | Assorted Carbolic Soaps to think that Bird Island, to the northwest of Kauai, would be a desirable point for a breakpounds of wool annually. The higher lands are station, in the event of a Pacific Cable being admirably adapted to sheep-raising, and I have myself on the island of Lanai 50,000 sheep in vince him that every requisite for making it a vince him that every requisite for making it a convenient station is wanting; while here, on Oabu, everything needed is at hand, or could be procured without unnecessary delay. The concluding sentence is an expression of the arguments that prevent united action by the people of EX SHIP 'BEN LEDI. Australia on this important subject. Each Colo-The Cable Conference which recently sat in

Melbourne, was remarkable for the absence of any representative of Western Australia. It seems unfortunate that the situation of this colony on the Australian continent in regard to our Indian Empire should attract so little attention, at a time when the other Australian colonies are engaged in discussing plans for transmarine telegraphic improvements. While Perth was unconnected with the Eastern Australian Colonies by the telegraph, it is not surprising that little or no attention was given to the scheme of a direct submarine cable between Freemanile, or some other point on the West coast of Australia, and Ceylon, with a convenient break-station on Keeling's Islet. The manifold advantages of direct cable communication between Southern India and Western Australia are too obvious to need recapitulation. However isolated may seem the position of Western Australia at present, it must strike all reflective minds, in Australia itself, in British India, and the mother country as well, that a splendid and highly important future lies before the Western coast regions of the Australian continent,-thanks to their a new palace, one of \$10,000 to secure a physi- geographical position. As long as Her Majesty cian for the lepers, one of \$50,000 for immigra- the Queen bears also the title of Empress of India tion, on condition that not a dollar will be ex- | the proximity of Western Australia to British India will constantly grow of more and more ance, especially when the day arrives that shall see an Australian Dominion, similar to the actual Canadian Dominion, joined out of the several disunited Australian colonies of the present day. A submarine cable between Ceylon and the West coast of Australia, now telegraphically connected with the East coast, would form a most im-

portant link in the grand scheme of telegraphic communication which many enlightened and farseeing people propose as a mode of connecting the mother country with the present Canadian Dominion, the proposed Australasian Dominion, and the British Indian Empire, via British North America, the Pacific, Australia, and the Indian Ocean Not long ago Lord Normanby proposed to Earl Carnarvon a scheme for a submarine cable between New Zealand and San Francisco, via Fiji and Honolulu. As a modification of this scheme, it has been suggested that, inasmuch as an overland inter-oceanic telegraph line is now being constructed between Canada and British Columbia, which will soon be completed, it would be more desirable for obvious reasons to make Victoria (in Vancouver's Island) the terminal station on the North Pacific of the submarine cable which Lord Normanby proposed to the Secretary of State for the colonies to lay down between New Zealand and the North American coast. The mother country would thus possess telegraphic communication with Australia, and ultimately with British India, independently of all other powers. Bird Island-a rocky islet considerably detached from the Sandwich Islands to whose King it belongs,-would be ceded by, His Hawaiian Majesty, it is believed, to Great Britian, as a break-station of this grand Pacific cable scheme, in consideration of a branch cable being laid down between Bird Island and Honolulu. A second break-station would be established at Fiji, and as a further modification of the scheme, a cable from thence might be thrown direct across to the Queensland coast. In fine, British India could ultimately be connected by cables with Natal in British South Africa, via the Mauritius. It must be owned that this is a gigantic scheme

of telegraphic communication between the mother country and all her great territorial possessions, in North America, Australia, Asia and South Africa, continuously through British territory, when not under sea-and consequently uninterruptedly under British control. To return, however, to the question before the cable conference at Melbourne; might it not be well to glance at the project of a direct cable communication between Western Australia and Ceylon, via the Indian Ocean, especially as a link would thus be safely laid down in the gigantic telegraphic scheme outlined above, and already partially mooted by the Marquis of Normanby, as regards the Pacific section of the same? Under these curcumstances, it appears to use the very best policy for Western Australia to decline to be saddled with any part of the cost of any scheme of submarine telegraphic communication between this continent and any point of the Asiatic continent, save and except a cable between Western Australia and Ceylon.

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Iron Bedsteads, Corrugated Iron, Hoop Iron,

BASS' ALE, PIG BRAND PORTER,

STEAM COAL!

THEO. H. DAVIES.

---EX----

900 TONS OF

DEPARTURE BAY COAL

SALAMANDER FELTING

-FOR-

SAVES 25 PER CENT, OF FUEL.

PER BARREL.

COAL! COAL! COAL

Now Landing, Ex Bark

1,800 TONS

BEST QUALITY WALLSEND STEAM COALS

For Sale in Quantities to Suit Purchasers at Low-

est Markest Rates.

CASES CORN STARCH.

jars and half gailon jars; Clams, Lobsters, &c., &c., received this day and for sale by

OREGON HAMS

For Sale by

COME FRESH AND GOOD.

MASES LA CROIX CORN. QUARTER

ARKWR1GHT,"

THEO. H. DAVIES, Agent.

Allen & Robinson.

BOLLES & Co.

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FOR SALE BY

Empty Petroleum Barrels, Railroad Iron,

DUNVILLE'S WHISKEY.

Oxford and Crimean Shirts, India Rubber Clothing,

Prints, Denims, Brown Cottons, Pilot Clothing,

Umbrelias, Moleskins, Towels, Velvet Carpets,

Under Clothing, Wool Shirts,

G. W. MACFARLANE & CO.

Sheathing Felt, Iron Axles, all sizes;

Corrugated Iron, Anvils.

Tooth Powder, Shaving Cream, Combs, Smelling Bottles, Tollet Powder,

Assortment of Toilet Soaps, &c., &c.

LARGE AND VERY SUPERIOR AS-

ASSORTED ELASTIC TRUSSES,

Medicines Generally!

NATIONAL

TUBE WORKS CO., Beston, Massachusetts,

And to Arrive Shortly,

Wrought Iron Steam Pipe,

CALV. WATER PIPE

Carrying a Large Stock on Consignment, shipped to us direct from the Works at Lowest Rates of Freight, we are

Haw'n. Bark IOLANI!

ENGLISH, GERMAN & FRENCH

Consisting in part of Four of Mirrlees, Tait & Watson's DRY GOODS!

Powder and Shot, Printing and Wrapping Paper TWO PIANOS!

HARDWARE! Discharging her Cargo! Tin, Zinc, Lead, Iron, &c., Corrugated Roofing, Fence Winey Hoop Iron, Yellow Metal and Natin, Cuttery, &c.,

Champagge, German and Norwegian Beer, Spirits,
Cigars, Groceries, Kerosene Olt,
Tailow Containers and Coal Tur,
Red and Fire Bricks, States, Coals,
Clay, Gambier, Cutch, &c., &. For Sale by

The Baker & Confectioner Has Removed from his Old Stand to New and Gossages' Celebrated Blue Mottled Soap. NEATLY FITTED UP QUARTERS,

CENTRIFUGALS & ENGINES, AMERICAN, FRENCH & GERMAN

Pastries, Made at the shortest notice and in any quantity. Also, Candies of Home Manufacture.

Best Double-Screened South Wales

Soda Water and Ginger

DINGS AND PARTIES FOR WED-Ornamented in the highest style of the art.

THE OLD CORNER



AN ASST. OF CUT SMOKING TOBACCO And a Large Assortment of

as, u H. J. NOLTE,

Sole Agents for the Islands, for the

HAVE NOW ON HAND.

275,000 FEET

BEST LAP WELDED

From 1 to 7 inches in diameter; and are now pre-

pared to sell from the store or to arrive, In Quantities to Suit Purchasers.

Prepared to Fill Orders Promptly and at

HONOLULU IRON WORKS Co 5022 3m

the Lowest Possible Rates.

--- PER ----

AN ASSORTED CARGO OF NEW & DESIRABLE

GOODS:

Prints, Cottons, Woolens and Bilks, Cloth and Buckshins, Handkerchiefs, Poslery, Towels, Clothing, Shirts, &c., &c Bags and Bagging, Canvas

Calf Skins, Belting and Packing, Cordage,

VIENNA CHAIRS!

WINES!

HORN,

Directly opposite his old place, and is now prepared to sup-ply the public with the

Best of Bread fresh every day

ICE CREAM SALOON. FOR LADIES AND GENTLEMEN,

BEER ALWAYS ON HAND.



ESTABLISIHED IN 1858.

OFFERS FOR SALE A FINE ASSORTMENT OF HAVANA, GERMAN & MANILA CIGRAS Light and Hard Pressed

NATURAL LEAF TOBACCO, Fine Cut Chewing Tobacco

BRIAR WOOD AND OTHER PIPES ! Tobacco Pouches, Pipe Stems.

Amber and Horu Mouth Pieces,
Pipe Buttons, Cigarette Paper, etc., etc.

SADDLES!

mh30 6m H. HACKFELD & CO.

BLOOD, WOLFE & CO.'S ALE Which he warrants free from all poisonous dyes, and which he will sell at San Francisco Prices, the public thereby saving the duty of 25 per dent.

MR. HORN has also fitted up, in connection with his

All creams being made from the best of Custards and sold at FIFTEEN CENTS A GLASS.

NOW LANDING! Bark Victoria,

BEST COAL FOR PLANTATION USE. Coffee and Billiard Saloon,

